

UNITED STATES DISTRICT COURT

for the
District of Arizona

10/22/17
United States of America)

v.)

Javier Lopez-Gaxiola,
a.k.a.: Javier Lopez Gaxiola,
(A095 783 206)

Defendant)

Case No. 17-449 MJ

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of October 22, 2017, in the County of Maricopa, in the District of Arizona, the defendant violated Title 8, U.S.C. § 1326(a), a felony, and Title 8, U.S.C. § 1325(a)(2) a class B misdemeanor, an offense described as follows:

See Attachment A Incorporated By Reference Herein


I further state that I am a Deportation Officer.

This criminal complaint is based on these facts:

See Attached Statement of Probable Cause Incorporated By Reference Herein


CEB
REVIEWED BY: Charles E. Bailey, P.S. for AUSA Brandon Brown

☒ Continued on the attached sheet.


Complainant's signature
Marcus Leggett,
Deportation Officer
Printed name and title

Sworn to before me and signed in my presence.

Date: October 23, 2017


Judge's signature

City and state: Phoenix, Arizona

Michelle H. Burns,
United States Magistrate Judge
Printed name and title

ATTACHMENT A

Count 1

On October 22, 2017, Javier Lopez-Gaxiola, an alien, was found in the United States of America at or near Glendale, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near Nogales, Arizona, on or about March 25, 2009, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), a felony.

Count 2

On October 22, 2017, at or near Glendale, in the District of Arizona, Javier Lopez-Gaxiola, an alien, did elude the examination or inspection by immigration officers in violation of Title 8, United States Code, Section 1325(a)(2), a class B misdemeanor.

STATEMENT OF PROBABLE CAUSE

I, Marcus Leggett, being duly sworn, hereby depose and state as follows:

1. Your affiant is a Deportation Officer with United States Immigration and Customs Enforcement (ICE). I have learned from direct participation in the investigation and from the reports and communications of other agents and officers the facts recited herein.
2. On October 22, 2017, during the local Cross Check Operation, ICE officers in the Phoenix Field Office encountered Javier Lopez-Gaxiola at a residence on 8108 W. Lamar Road, in Glendale, Arizona. At the scene, ICE officers interviewed Lopez-Gaxiola and determined him to be a citizen of Mexico, illegally present in the United States. On the same date, Lopez-Gaxiola was transported to the Phoenix ICE office for further investigation and processing. Lopez-Gaxiola was held in administrative custody until his criminal and immigration records could be obtained and his identity confirmed.
3. Immigration history checks revealed Javier Lopez-Gaxiola to be a citizen of Mexico and a previously deported criminal alien. Lopez-Gaxiola was removed from the United States to Mexico through Nogales, Arizona, on or about March 25, 2009, pursuant to an order of removal issued by an immigration official. There is no record of Lopez-Gaxiola in any Department of Homeland Security database to suggest that he obtained permission from the Secretary of the Department of Homeland Security to

return to the United States after his removal. Lopez-Gaxiola's immigration history was matched to him by electronic fingerprint comparison.

4. Furthermore, there is no record of Javier Lopez-Gaxiola in any Department of Homeland Security database to suggest that after his last removal from the United States he entered into the United States at an official Port of Entry. Had Lopez-Gaxiola presented himself at a Port of Entry, Department of Homeland Security records likely would reveal that information. Accordingly, your affiant believes that Lopez-Gaxiola entered the United States at a location not designated as an official Port of Entry, and thereby eluded examination and inspection by Immigration Officers of the United States. Lopez-Gaxiola's immigration history was matched to him by electronic fingerprint comparison.
5. On October 22, 2017, Javier Lopez-Gaxiola was advised of his constitutional rights. Lopez-Gaxiola freely and willingly acknowledged his rights and declined to make a statement.
6. For these reasons, this affiant submits that there is probable cause to believe that on or about October 22, 2017, Javier Lopez-Gaxiola, an alien, was found in the United States of America at or near Glendale, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near Nogales, Arizona, on or about March 25, 2009, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a) and on October 22, 2017, at or near Glendale, in the District of Arizona, Javier Lopez-

Gaxiola, an alien, did elude the examination or inspection by immigration officers in violation of Title 8, United States Code, Section 1325(a)(2).

A handwritten signature in black ink, appearing to read "M Leggett", written over a horizontal line.

Marcus Leggett,
Deportation Officer,
Immigration and Customs Enforcement

Sworn to and subscribed before me
this 23rd day of October, 2017.

A handwritten signature in black ink, appearing to read "Michelle H. Burns", written over a horizontal line.

Michelle H. Burns,
United States Magistrate Judge